

Exhibit D

Case 1:07-cv-08785-HB Document 56-5 Filed 01/28/2008 Page 1 of 5

Phillip Fei

Plaintiff(s)

DATE FILED: 1/28/08

-against-

67 Civ. 8785 (HB)

WestLB AG

**PROPOSED PRETRIAL
SCHEDULING ORDER**

Defendant(s).

APPEARANCES:

Plaintiff(s) by:

Jack Raiser + Linda Neilan Cutten + Golden LLP

Defendant(s) by:

Vilia Hayes + Ned Bassen Hughes Hubbard + Reed LLP

HAROLD BAER, Jr., District Judge:

Do the parties consent to proceed before a United States Magistrate for all purposes, pursuant to 28 U.S.C. § 636(c) and Fed. R. Civ. P. 73?

Yes ☐ No ☒

Pursuant to Rule 16(b) of the Federal Rules of Civil Procedure, after holding an initial pretrial conference on notice to all parties, it is hereby ordered that:

Except under circumstances agreed to by the Court:

1. This case is added to the August 2009 Trailing Trial Calendar.
Jury ☒ Non-Jury ☐ Estimated number of trial days is 10. Counsel should not make any other commitments during this month. As a general rule, all cases will be tried within a reasonable time from the date of this pretrial conference based on the complexity of the case.

2. No additional parties may be joined after Feb. 10, 2008 *

New parties shall be bound by the deadlines included in this Pretrial Scheduling Order. If new parties are joined, the party joining them shall forward to them a copy of this Pretrial Scheduling Order and provide them with access to all previously taken discovery. Should this pose a seemingly insurmountable problem, call Chambers.

3. No additional causes of action or defenses may be asserted after Feb. 1, 2008.

4. Discovery: All discovery, except for expert discovery, shall be commenced in time to be completed by Feb. 15, 2009. Disclosure of expert testimony, if any, will be made at least 45 days before the agreed to trial month. Evidence intended to contradict or rebut the subject matter of the expert testimony will be submitted within 21 calendar days after the

* except for additional plaintiffs ^{that may be} joined pursuant to 29 U.S.C. § 216(b) pursuant to time specified in the notice of the Court certifies a collective action or upon application to + further order from the Court.

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If applicable, decisions with respect to disclosure and discovery of electronically stored information, along with privilege issues related to that information, shall be provided to the Court within 10 days of this Order.

5. **Motions:** No party may make a dispositive motion returnable after May 15, 2009. Either party may request (and will be given a date by Chambers) for oral argument. The above date is the date by which any motion shall be fully briefed (i.e., moving, opposition and reply papers) and a courtesy copy delivered to Chambers.

In deciding the last date to submit fully briefed motions and your agreed to trial month, keep in mind that the Court requires at least 60 days to decide dispositive motions.

6. **Joint Pretrial Order:** A joint pretrial order shall, unless waived by the Court, be submitted by July 20, 2009. The pretrial order shall conform to the Court's Individual Practice and Rules. Counsel may inquire of Chambers with respect to the filing date(s) for requests to charge, proposed voir dire, and motions in limine, but in no event are they to be submitted less than five (5) business days (fully briefed) before the date set for trial.

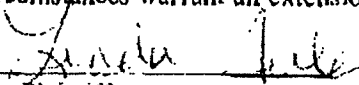
7. The law clerk assigned to this case is Nathalie Roy, to whom all correspondence should be directed.

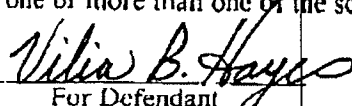
8. Upon request to Chambers by either side, the Court will schedule and conduct a settlement conference and/or mediation. The Court will also, upon request, facilitate mediation under the Court Mediation Program or a settlement conference before your Magistrate Judge. In the case of a mediation to be conducted by the Court, all parties must bring their respective clients to the mediation. Keep in mind, closure, for the most part, is accomplished in direct proportion to how early in the litigation the mediation occurs. Any ADR procedure must occur within the framework of this order.

9. Whenever a case is resolved, the parties must submit an Order of Discontinuance, signed by all parties before the case will be removed from the trial calendar. When the parties settle within forty-eight hours of trial or the filing of a dispositive motion, they must notify the Court immediately of such settlement, and fax to the Court no less than thirty-six hours prior to their planned appearance, an Order of Discontinuance (copy attached), signed by all parties.

10. The parties attach an agreed schedule for briefing of motions that the parties presently contemplate and interim cut-off dates for discovery.

that this schedule is final and binding upon them unless the Court finds extraordinary circumstances warrant an extension with respect to one or more than one of the scheduled dates.

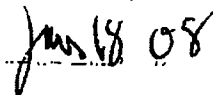

For Plaintiff

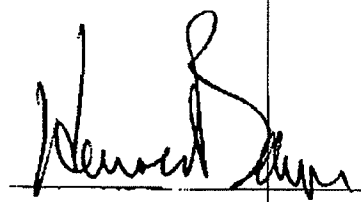

For Defendant

For Defendant

For Plaintiff

SO ORDERED.

DATED: New York, New York



HAROLD BAER, JR.
United States District Judge

EVENT	DEADLINE
Plaintiff's response to Defendant's Motion to Dismiss	January 11, 2008
Plaintiff's response to Defendant's Counterclaims	January 11, 2008
Plaintiff's Motion Seeking Leave to Amend the Complaint	January 25, 2008
Initial Disclosures	January 25, 2008
Defendant's reply in support of Motion to Dismiss and response in opposition to Plaintiff's Motion to Dismiss the Counterclaims	January 31, 2008
Joinder of additional parties, except additional parties may opt-in pursuant to the time specified in the notice if the Court certifies a collective action.	February 10, 2008
Defendant's Opposition to Motion Seeking Leave to Amend the Complaint	February 15, 2008
Plaintiff's Reply to Motion to Dismiss	February 20, 2008
Plaintiff's Motion for Conditional Certification under 29 U.S.C. § 216(b)	March 15, 2008
Defendant's Opposition to Plaintiff's Motion for Conditional Certification under 29 U.S.C. § 216(b)	April 15, 2008
Plaintiff's Reply on Motion for Conditional Certification under 29 U.S.C. § 216(b)	May 1, 2008
Close of non-expert discovery related to Plaintiff's Motion for Class Certification under Fed. R. Civ. P. 23	June 15, 2008
Plaintiff's Motion for Class Certification under Fed. R. Civ. P. 23	July 1, 2008
Defendant's Opposition to Plaintiff's Motion for Class Certification under Fed. R. Civ. P. 23	August 1, 2008
Identification of Plaintiff's Expert	August 1, 2008

Plaintiff's Reply to Motion for Class Certification under Fed. R. Civ. P. 23	August 15, 2008
Identification of Defendant's Expert	November 1, 2008
Merits discovery	November 15, 2008 – February 15, 2009
Plaintiff's Expert Report	January 15, 2009
Defendant's Expert Report	February 15, 2009
Close of expert discovery	March 1, 2009
Defendant's Motion for Summary Judgment and/or Decertification	April 1, 2009
Plaintiff's Opposition to Defendant's Motion for Summary Judgment and/or Decertification	May 1, 2009 or 30 days after motion is served
Defendant's Reply to Motion for Summary Judgment and/or Decertification	May 15, 2009
Joint Pre-Trial Order Due	July 20, 2009
Trial	July 30, 2009